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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,440	10/09/2001	Rajan Keshav Panandiker	8296	5975

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THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL TECHNICAL CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER

PIERCE, JEREMY R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/973,440

Applicant(s)

PANANDIKER ET AL.

Examiner

Jeremy R. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-13,15 and 18-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-13,15 and 18-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 26, 2005 has been entered.

### ***Response to Amendment***

2. Applicant's amendment filed on January 26, 2005 has been entered. Claim 2 has been cancelled. Claims 1, 5, 10, and 32 have been amended. Claims 1, 3-13, 15, and 18-32 are currently pending. The cancellation of claim 2 is sufficient to withdraw the 35 USC 112 rejection set forth in section 3 of the last Office Action. Applicant's amendment is also sufficient to withdraw the 35 USC 102 and 103 rejections set forth in sections 5, 6, 8, and 9 of the last Office Action because the Camber and Wattiez et al. patents fail to teach the dye absorbing compound is an insoluble cross-linked polymeric amine.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-13, 15, and 18-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cambre (U.S. Patent No. 4,199,464) in view of Boeckh et al. (WO 96/37598; An English abstract is provided, and a full translation of the document has been ordered and will be provided in the next Office Action).

Cambre discloses a laundry substrate article that provides various benefits including dye transfer inhibition (column 1, lines 56-57). The detergent composition inhibits the transfer of certain dyes in the washing solution (column 12, lines 40-43). The article can be multi-layer paper structures (column 5, lines 50-52). Cambre fails to disclose the dye absorbing compound is a substantially insoluble cross-linked polymeric amine. Boeckh et al. teach a water insoluble cross-linked amine that is added to detergents to prevent dye transfer during washing (Abstract). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use the water insoluble cross-linked amine taught by Boeckh et al. in the detergent composition taught by Cambre in order to prevent dye transfer during washing, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416.

With regard to claims 3 and 4, the multi-ply paper may be embossed (column 5, line 52), which would create pressure bonds. With regard to claims 5, 6, and 8, Cambre discloses a two-layer embodiment where the first and second layers weigh 77.5 gsm (column 18, lines 20-22). With regard to claims 5, 10, and 27, concerning the additional layer, Cambre discloses that the substrate may be made according to U.S. Patent No. 3,414,459 to Wells (column 4, line 45), which is incorporated into Cambre by reference. Wells discloses embodiments of at least two paper plies to be between 7 to 30 pounds per 3000 square feet, which equals about 11 to 49 gsm (column 4, lines 32-43). Wells also specifically discloses a three-layer embodiment (column 5, lines 14-16). With regard to claim 12, Cambre discloses using nonwoven cloths (column 4, lines 3-46). With regard to claims 15 and 28, Cambre discloses the cloths may be air-laid (column 4, lines 65-68). With regard to claims 18, 21, and 29, Cambre discloses the substrate to have a melting point higher than at least 300 degrees Fahrenheit so that it does not melt in a drying machine (column 4, lines 20-24).

With regard to claims 20, 25, 26, and 31, although Cambre does not explicitly teach the limitations of stiffness, it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. multi-layer substrate) and in the similar production steps (i.e. air-laying the two layers with similar basis weights) used to produce the laundry substrate. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. Further support for inherency is present because Cambre incorporates by reference similar patents that the Applicant incorporates into the present invention. Applicant

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states, "A specific example of a type of paper article material preferred herein is a two-ply paper having a basis weight of about 50 pounds per 2,880 sq. ft. made from, for example, a mixture of ground wood and kraft bleached wood pulps. Another example is the absorbent, multi-ply toweling paper which is disclosed in U.S. Pat. No. 3,414,459, Wells, issued Dec. 3, 1968" (page 10, lines 26-30). Similarly, the Cambre reference has the exact same paragraph describing a preferred substrate for that invention (column 4, lines 38-46). Use of the same materials by Cambre as Applicant supports the presumption for inherency of the resulting properties. In the alternative, the claimed stiffness and permeability would obviously have been provided by the process disclosed by Cambre because Cambre specifically states that fiber density and thickness can be adjusted so long as the article is able to maintain its structural integrity during a wash (column 4, lines 14-19). Increasing the stiffness would be optimization of a result effective variable, with those variables being fiber density and thickness. It would have been obvious to one having ordinary skill in the art to create an article with a Taber stiffness rating of from 7 TSU to 200 TSU and permeability greater than or equal to 0.06 ml/sec/cm<sup>2</sup>, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). With regard to claims 10 and 11, it is reasonable to presume that the first layer has opacity of less than 70%, or preferably 50%. Support for said presumption is also based on the use of similar materials and similar processes used to create the laundry substrate. The burden is upon the Applicant to prove otherwise. Alternatively, it would have been obvious to a person having ordinary skill in the art to

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make the first layer less opaque, by adjusting the result effective variables of thickness and fiber density as discussed above, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. With regard to claims 19, 23, 24, and 30, it is also reasonable to presume that the claimed permeability properties are also inherent to Cambre. In addition to the support for similar materials and similar production processes, Cambre teach the article has permeability properties similar to those provided by various McQueary references (column 5, lines 38-46). Applicant teaches the present invention also has permeability properties similar to those found in the McQueary references (page 12, lines 5-15). The burden is upon the Applicant to prove otherwise. In the alternative, it would have been obvious to a person having ordinary skill in the art to make the water permeability greater than or equal to 0.06 ml/sec/cm<sup>2</sup>, because Cambre teaches that density and void volume are adjustable variables (column 5, lines 48-50), and it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. With regard to claim 22, Cambre discloses the substrate to have a melting point higher than at least 300 degrees Fahrenheit so that it does not melt in a drying machine (column 4, lines 20-24).

With regard to claim 9, Cambre do not disclose a specific two-layer embodiment where the second layer has a weight between 80 and 120 gsm. Cambre do disclose a two-layer embodiment where both layers weight 77.5 gsm. Cambre also disclose that the weight of the layers can be between 50 and 90 gsm (column 5, lines 25-28), and that fiber density and thickness (two factors that effect basis weight) can be adjusted so

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long as the substrate maintains structural integrity (column 4, lines 14-19). It would have been obvious to one having ordinary skill in the art to make the second layer have a basis weight between 80 and 120 gsm in order to increase the strength of the second layer to maintain structural integrity, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

5. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wattiez et al. (U.S. Patent No. 4,494,264) in view of Boeckh et al.

Wattiez et al. disclose an article formed from cotton that has been grafted to absorb dye (column 2, lines 36-46). The article may be formed from two layers (column 4, lines 36-37). Although Wattiez et al. teach the dye absorber comprises nitrogen (column 3, lines 26-31), Wattiez et al. fail to teach the dye absorber is a water insoluble crosslinked amine. Boeckh et al. teach a water insoluble cross-linked amine that serves to prevent dye transfer during washing (Abstract). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use the water insoluble cross-linked amine taught by Boeckh et al. on the fabric taught by Wattiez et al. in order to prevent dye transfer during washing, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416.

### ***Double Patenting***

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11



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F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1, 3-13, 15, and 18-32 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S.

Patent No. 6,833,336 in view of Cambre. The claims of the '336 Patent disclose an insoluble substrate with a dye absorber comprising a substantially insoluble non-cationic polymeric amine. The claims do not discuss the specifics of the insoluble substrate. However, it would be necessary and therefore obvious to a person having ordinary skill in the art at the time of the invention to deploy the insoluble amine on some known prior art substrate used in dye scavenging. Cambre provides such a substrate and meets the claimed limitations, as set forth above in the section 4.

### ***Response to Arguments***

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

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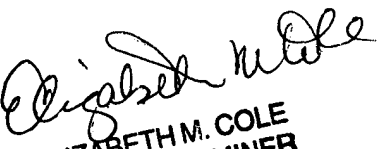
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (571) 272-1479. The examiner can normally be reached on normal business hours, but works a flexible work schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JP

Jeremy R. Pierce  
June 17, 2005

  
ELIZABETH M. COLE  
PRIMARY EXAMINER